

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, DC 20436

ADMINISTRATIVE PROTECTIVE ORDER
Inv. No. TA-201-71

(Crabmeat from Swimming Crabs)

A. Application

(1) To obtain disclosure of confidential business information (CBI) under this Administrative Protective Order (APO), an authorized applicant, as defined in section 206.17(a)(3) of the Commission's Rules of Practice and Procedure (19 C.F.R. § 206.17(a)(3)), must comply with the terms of this APO.

(2) An application for disclosure must be made by an authorized applicant in the form attached hereto. The authorized applicant shall file an application with the Secretary to the Commission (the Secretary) within the deadlines provided in section 206.17(a)(2) of the Commission's rules.

(3) In order to obtain disclosure of CBI under this APO from Commission personnel, an authorized applicant must present a copy of his application and personal identification satisfactory to the Secretary. If the authorized applicant wishes a person described in paragraph B(1)(iv) of this APO to act for him in obtaining disclosure, the person must present a copy of his Acknowledgment for Clerical Personnel and personal identification satisfactory to the Secretary.

B. Obligations of the authorized applicant

By its application, the authorized applicant shall agree to:

(1) Not divulge any of the CBI obtained under this APO and not otherwise available to him, to any person other than

- (i) Personnel of the Commission concerned with the investigation,
- (ii) The person or agency from whom the CBI was obtained,
- (iii) A person whose application for access to CBI under this APO has been granted by the Secretary, and
- (iv) Other persons, such as paralegals and clerical staff, who (a) are employed or supervised by and under the direction and control of the authorized applicant or another authorized applicant in the same firm whose application has been granted; (b) have a need thereof in connection with the investigation; (c) are not involved in competitive decisionmaking for an interested party which is a party to the investigation; and (d) have submitted to the Secretary a signed Acknowledgment for Clerical Personnel in the form attached hereto (the authorized applicant shall also sign such acknowledgment and will be deemed responsible for such persons' compliance with this APO);

(2) Use such CBI solely for the purposes of the above-captioned Commission investigation;

(3) Not consult with any person not described in paragraph (1) concerning CBI disclosed under this APO without first having received the written consent of the Secretary and the party or the representative of the party from whom such CBI was obtained;

(4) Whenever materials (*e.g.*, documents, computer disks, etc.) containing such CBI are not being used, store such material in a locked file cabinet, vault, safe, or other suitable container (N.B.: storage of CBI on so-called hard disk computer media is to be avoided, because mere erasure of data from such media may not irrecoverably destroy the CBI and may result in violation of paragraph C of this APO);

(5) Serve all materials containing CBI disclosed under this APO as directed by the Secretary and pursuant to section 206.17(f) of the Commission's rules;

(6) Transmit each document containing CBI disclosed under this APO:

- (i) with a cover sheet identifying the document as containing CBI,
- (ii) with all CBI enclosed in brackets and each page warning that the document contains CBI,
- (iii) if the document is to be filed by a deadline, with each page marked "Bracketing of CBI not final for one business day after date of filing," and
- (iv) if by mail, within two envelopes, the inner one sealed and marked "Confidential Business Information--To be opened only by [name of recipient]", and the outer one sealed and not marked as containing CBI;

(7) Comply with the provisions of this APO and section 206.17 of the Commission's rules;

(8) Make true and accurate representations in the authorized applicant's application and promptly notify the Secretary of any changes that occur after the submission of the application and that affect the representations made in the application (*e.g.*, change in personnel assigned to the investigation);

(9) Report promptly and confirm in writing to the Secretary any possible breach of this APO; and

(10) Acknowledge that breach of this APO may subject the authorized applicant and other persons to such sanctions or other actions as the Commission deems appropriate, including the administrative sanctions and actions set out in this APO.

C. Return or destruction of CBI

(1) At any time, the Secretary may order the return, destruction, or transfer of any CBI disclosed under this APO, in which case the authorized applicant shall promptly return such CBI to the Secretary or to the submitter of the CBI or destroy the CBI or transfer the CBI to another authorized applicant, as the Secretary may direct.

(2) Within sixty (60) days after the completion of this investigation (*i.e.*, after the publication in the *Federal Register* of a Commission determination), or at such other time as the Secretary may direct, the authorized applicant shall return or destroy all copies of CBI disclosed under this APO and all other materials containing such CBI, such as charts or notes based on such CBI. Whenever the authorized applicant returns or destroys CBI pursuant to this paragraph, he shall file a certificate attesting that to his knowledge and belief all copies of such CBI have been returned or destroyed and no copies of such CBI have been made available to any person to whom disclosure was not specifically authorized.

D. Sanctions and other actions for breach of this APO.

The authorized applicant shall in an application acknowledge that, pursuant to section 206.17(d) of the Commission's rules, breach of this Administrative Protective Order may subject an offender to:

(1) Disbarment from practice in any capacity before the Commission along with such person's partners, associates, employer, and employees, for up to seven years following publication of a determination that the order has been breached;

(2) Referral to the United States Attorney;

(3) In the case of an attorney, accountant, or other professional, referral to the ethics panel of the appropriate professional association;

(4) Such other administrative sanctions as the Commission determines to be appropriate, including public release of or striking from the record any information or briefs submitted by, or on behalf of, such person and the party he represents, denial of further access to confidential business information in the current or any future investigations before the Commission, and issuance of a public or private letter of reprimand; and

(5) Such other actions, including but not limited to, a warning letter, as the Commission determines to be appropriate.

By order of the Commission.

Donna R. Koehnke
Secretary

Issued:

Attachments:

1. Form Application for Disclosure of Confidential Business Information under Administrative Protective Order.
2. Form Acknowledgment for Clerical Personnel